

IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
August 28, 2019

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at 575 E. Parkcenter Blvd., Suite 180, Boise, Idaho on Wednesday, August 28, 2019 at 1:00 p.m.

Commission Members Present:

Jill Stone, Chair, Twin Falls
Mike Gamblin, Vice Chair, Boise
Kim Cooper, Member, Coeur d'Alene
Michael James Johnston, Member, Idaho Falls
Martin Espil, Public Member, Boise
Comprising a quorum of the Commission

Members Absent:

Staff Present:

Michelle Bird, Executive Director
Melissa Ferguson, Education & Licensing Director
Craig Boyack, Chief Investigator
Jessica Valerio, Administrative Assistant 2

Others Present:

See attached list

Introductions:

- a. Commissioners
- b. Staff
- c. Guests

Meeting was called to order at 1:01 p.m. MT by Commission Chair Jill Stone.

Approval of Meeting Agenda: Motion was made by Michael J. Johnston to approve the August 28, 2019 meeting agenda as amended. Motion carried.

Approval of Meeting Minutes: Motion was made by Michael J. Johnston to approve the May 6, and June 7, 2019 Commission meeting minutes. Motion carried.

Staff Reports:

The following reports were presented for members' review; copies of which are on file at the Commission office:

- **End of Fiscal Year 2019 and July 2019 Financial Report(s)**
- **License Base Analysis**
- **Examination Statistics**
- **Complaint Summary Report**
- **Enforcement Telephone Activity Log(s) July 2019**
- **Audit Report(s) July 2019**
- **Education & Licensing Telephone Log(s) July 2019**
- **Waiver Report**

Executive Director's Report:

Discussion on Proposed Legislation: Director Bird lead discussion on 2020 draft legislation and presented all of the draft changes.

Motion was made by Commissioner Kim Cooper to approve proposed legislation. Motion carried.

Update on IREC App: Director Bird reported on the research she conducted on creating an IREC App and presented information from the Board of Pharmacy's research of App. Director Bird asked for more direction from the Commissioners on what they would like in the App. Director Bird will follow up with other states that have an App.

Administrative Rules Review: Director Bird led discussion and updated the attendees on the work that has been done on administrative rules as directed by the Governor's office.

Motion was made by Commissioner Michael J. Johnston to submit rules as amended and to allow Director Bird to make non-substantive edits as necessary. Motion carried.

Education & Licensing Director's Report:

Report on Broker Curriculum Update: Director Ferguson reported on Broker Curriculum update.

E&O Update: Director Ferguson reported on Errors and Omissions. Director Ferguson reported on number of licensees who have already renewed their E&O insurance through the RISC group policy. Numbers are significantly higher than prior years.

Enforcement

Stipulations:

Staff vs. Deerfield Partners, Inc., Case No. 18-0235: The party's Stipulation in this matter was presented for ex parte hearing and tape-recorded. Craig Boyack was sworn

in and presented the Stipulation. No other testimony was taken. Motion was made by Commissioner Michael J. Johnston to approve the Stipulation and to enter a “Final Order” in accordance with the terms of the Stipulation. Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes.

Staff vs. Art Griffith, Case No. 18-0234: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Craig Boyack was sworn in and presented the Stipulation. No other testimony was taken. Motion was made by Commissioner Michael J. Johnston to approve the Stipulation and to enter a “Final Order” in accordance with the terms of the Stipulation. Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes.

Staff vs. John Giordani, Case No. 18-0223: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Craig Boyack was sworn in and presented the Stipulation. No other testimony was taken. Motion was made by Commissioner Michael J. Johnston to approve the Stipulation and to enter a “Final Order” in accordance with the terms of the Stipulation. Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes.

Staff vs. Nicole Marie Stickland, Case No. 18-0394: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Craig Boyack was sworn in and presented the Stipulation. No other testimony was taken. Motion was made by Commissioner Mike Gamblin to approve the Stipulation and to enter a “Final Order” in accordance with the terms of the Stipulation. Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes.

Staff vs. Danyele “Angii” Walsh, Case No. 18-0393: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Craig Boyack was sworn in and presented the Stipulation. No other testimony was taken. Motion was made by Commissioner Mike Gamblin to approve the Stipulation and to enter a “Final Order” in accordance with the terms of the Stipulation. Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes.

Staff vs. Dennis R. Moyer, Case No. 18-0327: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Craig Boyack was sworn in and presented the Stipulation. No other testimony was taken. Motion was made by Commissioner Mike Gamblin to reject the stipulation as presented. Motion carried.

Staff vs. NAI Premier, Case No. 19-0024: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Craig Boyack was sworn in and presented the Stipulation. No other testimony was taken. Commissioner Michael J. Johnston recused himself. Motion was made by Commissioner Mike Gamblin to approve the Stipulation and to enter a “Final Order” in accordance with the terms of the Stipulation.

Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes.

Staff vs. Margaret Ann “Peggy” O’Brein, Case No. 18-0298: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Craig Boyack was sworn in and presented the Stipulation. No other testimony was taken. Motion was made by Commissioner Michael J. Johnston to approve the Stipulation and to enter a “Final Order” in accordance with the terms of the Stipulation. Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes

Notice of Default:

Staff vs. Sean Curtis Conner and RS Development: In the matter of Sean Curtis Conner and RS Development. Based on the record showing that the Administrative Complaint was filed and personally served on the Respondent more than 21 days ago, and the Respondent has failed to file any answer or other motion; a motion was made by Commissioner Michael J. Johnston that a Notice of Proposed Default Order be issued in this case, advising the Respondent he has 7 days to file a petition showing why the proposed order should not be entered and, further, that Mike Gamblin, as the local member of the Commission, be appointed as presiding officer who, upon the expiration of the 7-day period, will either sign the Final Order or issue an order setting aside the proposed default order. Motion carried.

Probable Cause Memo #19-0210: A motion was made by Commissioner Kim Cooper finding the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Idaho Code 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Commissioner Kim Cooper further moved that upon the initiation of any formal proceedings the Executive Director shall appoint a Hearing Officer to preside in the case, as provided by law. The Hearing Officer shall have the standard authority set forth in chapter 2 of the Commission’s administrative rules, IDAPA 33.01.02.452. Further, for any hearing held, with or without a hearing officer, the Notice of Hearing shall be issued in accordance with the Commission’s “Standard Form for Notice of Hearing and Scheduling Order”, a copy of which shall be provided to any hearing officer upon appointment. Motion carried.

Probable Cause Memo #19-0226, 19-0227, 19-0028, and 19-0229: A motion was made by Commissioner Kim Cooper finding the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Idaho Code 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Commissioner Kim Cooper further moved that upon the initiation of any formal proceedings the Executive Director shall appoint a Hearing Officer to pre-side in the case, as provided by law. The

Hearing Officer shall have the standard authority set forth in chapter 2 of the Commission's administrative rules, IDAPA 33.01.02.452. Further, for any hearing held, with or without a hearing officer, the Notice of Hearing shall be issued in accordance with the Commission's "Standard Form for Notice of Hearing and Scheduling Order", a copy of which shall be provided to any hearing officer upon appointment. Motion carried.

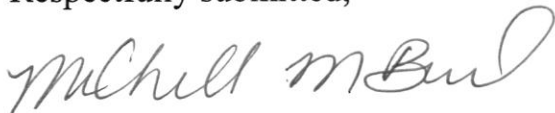
Executive Session: In accordance with provisions of Idaho Core (74-206(1)(b)), a motion was made by Commissioner Michael J. Johnston to adjourn to executive session. Roll was called, Michael J. Johnston, Mike Gamblin, Jill Stone, Kim Cooper, and Martin Espil voted in favor. Motion carried.

Regular Session: There being no further purpose for an executive session, a motion was made by Commissioner Mike Gamblin to adjourn the executive session and return to open meeting. Motion carried.

Exemption Review #19-018: Request seeking a waiver of experience to obtain a brokers license pursuant to Idaho Code 54-2012(2); following discussion and review of the documents submitted, motion was made by Commissioner Mike Gamblin to approve request for exemption. Motion carried.

There being no further business, Chair Jill Stone adjourned the meeting at 4:10 p.m. MT.

Respectfully submitted,



MiChell Bird
Executive Director


MB:jv

Attachments: Financial Report(s) End of FY19 & July 2019
 License Base Analysis
 Examination Statistics
 Complaint Summary Report
 Enforcement Telephone Activity Log(s) July 2019
 Audit Report(s) July 2019
 Education & Licensing Telephone Log(s) July 2019
 Waiver Report
 Final Orders


Minutes of the Idaho Real Estate Commission meeting on August 28, 2019 are hereby approved.




Jill Stone, Chair



Kim Cooper, Member



Martin Espil, Member



Mike Gamblin, Vice Chair



Michael J. Johnston, Member

BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL
ESTATE COMMISSION,

Petitioner,

vs.

NICOLE MARIE STRICKLAND,

Respondent.

FINAL ORDER

On August 28, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violations of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2018(9) – *Change in personal information. An individual licensee, whether active or inactive, shall provide written notice to the commission, in the form and manner approved by the commission, of any change of his personal name, address of personal residence or personal telephone number. Notice shall be provided within ten (10) business days of the change. If the licensee has changed his personal name, he shall also submit legal proof of the change and, if an active licensee, he shall have the broker submit the written notice of change to the commission.*

b. § 54-2053(4) – *No advertising shall provide any information to the public or to prospective customers or clients that is misleading in nature. Information is misleading if, when taken as a whole, there is a distinct probability that such information will deceive the persons whom it is intended to influence.*

Having considered the Stipulation, the Commission approves the same and enters the following order of discipline in accordance therewith.

IT IS HEREBY ORDERED, as follows:

1. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**

a. Respondent shall pay a **Five Hundred Dollar (\$500.00) civil fine by December 2, 2019.**

b. Respondent shall pay **costs and attorney's fees in the amount of Four Hundred Fifty Dollars (\$450.00) by October 2, 2019**, and that in any event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.

c. In the event Staff agrees to accept installment payments of any fine or fees under the Stipulation, should Respondent fail to make any one payment as required by its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any agreement or act by Staff to accept a late payment shall not constitute a waiver of Staff's right, upon any subsequent failure by Respondent to make a payment on time, to invoke this provision to require immediate and full payment.

d. All fines and attorney's fees are due and payable pursuant to the terms of this Order. Payments must be made directly to the Idaho Real Estate Commission by cash, check, money order or credit card, and may be hand delivered or mailed to the Idaho Real Estate Commission 575 E. Parkcenter Blvd., Ste. 180, Boise, Idaho 83706. **All payments must be received at the Commission office on or before 5:00 p.m.**

MST/MDT on the dates set forth above. MAKE ALL PAYMENTS TO THE IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES.

3. Continuing Education

a. Respondent shall successfully complete the following Idaho real estate educational course by March 2, 2020:

- **Post License Pricing, Marketing, and Advertising**

b. The above course shall be completed on or before 5:00 p.m. MST/MDT of the deadline day. In addition, within 48 hours of completing said course, Respondent shall be responsible for mailing/emailing/faxing (208-334-2050) a copy of the completion certificate to the Idaho Real Estate Commission, Attention: Chief Investigator. Should Respondent fail to provide Commission Staff with a completion certificate on or before the deadline, Respondent's real estate license shall be suspended pursuant to the terms of this Final Order.

c. Respondent is on notice that pursuant to Idaho Code 54-2023(5), "*No licensee shall obtain continuing education credit for education ordered by the Commission as part of a disciplinary action.*" Respondent shall not submit such Commission-ordered educational course for continuing education credit.

4. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent's license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by

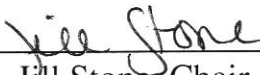
Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

5. The Commission shall be entitled to seek an injunction or order from the district court to enforce the provisions of this Final Order without further administrative hearing in the event the Respondent fails to comply with this Final Order entered pursuant to the Stipulation.

6. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondent by mailing a copy to the Respondent's last known address on file at the Commission office.

Issued this 28th day of August 2019.

FOR THE COMMISSIONERS:



Jill Stone, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Nicole M. Strickland
PO Box 535
Cascade, ID 83611

☒ U.S. Mail
☐ Email:
☐ Facsimile Transmission

Eric F. Nelson
Naylor & Hales, PC
950 W. Bannock St. Ste 610
Boise, ID 83702

☐ U.S. Mail
☒ Email
eric@naylorhales.com
☐ Facsimile Transmission



MiChell M. Bird, Executive Director
Idaho Real Estate Commission

BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL
ESTATE COMMISSION,

Petitioner,

vs.

MARGARET ANN "PEGGY" O'BRIEN,

Respondent.

FINAL ORDER

On August 28, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violations of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2038(1)(a) – *A designated broker is required to: Supervise and control, in the manner required by law and rule, all office locations, and the activities of all licensees and unlicensed persons associated with that brokerage company or for whom that designated broker is responsible.*

b. § 54-2045(2) – *Checks held in uncashed form. A ledger record must also be created when the broker or associate receives a check to be held for later deposit. However, such a check must be accompanied by written instructions in the purchase and sale agreement or offer to withhold deposit until a time certain, such as acceptance of the offer by the seller.*

Having considered the Stipulation, the Commission approves the same and enters the following order of discipline in accordance therewith.

IT IS HEREBY ORDERED, as follows:

1. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**

a. Respondent shall pay a **One Thousand Dollar (\$1,000.00) civil fine by October 2, 2019.**

b. Respondent shall pay **costs and attorney's fees in the amount of Four Hundred Fifty Dollars (\$450.00) by October 2, 2019**, and that in any event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.

c. In the event Staff agrees to accept installment payments of any fine or fees under the Stipulation, should Respondent fail to make any one payment as required by its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any agreement or act by Staff to accept a late payment shall not constitute a waiver of Staff's right, upon any subsequent failure by Respondent to make a payment on time, to invoke this provision to require immediate and full payment.

d. All fines and attorney's fees are due and payable pursuant to the terms of this Order. Payments must be made directly to the Idaho Real Estate Commission by cash, check, money order or credit card, and may be hand delivered or mailed to the Idaho Real Estate Commission 575 E. Parkcenter Blvd., Ste. 180, Boise, Idaho 83706. **All payments must be received at the Commission office on or before 5:00 p.m.**

MST/MDT on the dates set forth above. MAKE ALL PAYMENTS TO THE IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES.

3. Continuing Education

a. Respondent shall successfully complete the following Idaho real estate educational courses by March 2, 2020:

- **Risky Business 1**
- **Risky Business 2**

b. The above courses shall be completed on or before 5:00 p.m. MST/MDT of the deadline day. In addition, within 48 hours of completing said courses, Respondent shall be responsible for mailing/emailing/faxing (208-334-2050) a copy of the completion certificates to the Idaho Real Estate Commission, Attention: Chief Investigator. Should Respondent fail to provide Commission Staff with a completion certificate on or before the deadline, Respondent's real estate license shall be suspended pursuant to the terms of this Final Order.

c. Respondent is on notice that pursuant to Idaho Code 54-2023(5), "*No licensee shall obtain continuing education credit for education ordered by the Commission as part of a disciplinary action.*" Respondent shall not submit such Commission-ordered educational courses for continuing education credit.

4. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent's license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to

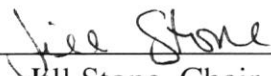
the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

5. The Commission shall be entitled to seek an injunction or order from the district court to enforce the provisions of this Final Order without further administrative hearing in the event the Respondent fails to comply with this Final Order entered pursuant to the Stipulation.

6. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondent by mailing a copy to the Respondent's last known address on file at the Commission office.

Issued this 28th day of August 2019.

FOR THE COMMISSIONERS:



L. Jill Stone, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Margaret A. "Peggy" O'Brien
New Home Star Idaho
3219 N 4th St.
Coeur d'Alene, ID 83815

☒ U.S. Mail
☐ Email:
☐ Facsimile Transmission

Eric F. Nelson
Naylor & Hales, PC
950 W. Bannock St. Ste 610
Boise, ID 83702

☐ U.S. Mail
☒ Email
eric@naylorhales.com
☐ Facsimile Transmission



MiChell M. Bird, Executive Director
Idaho Real Estate Commission

BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL
ESTATE COMMISSION,

Petitioner,

vs.

DANYELE "ANGIE" WALSH,

Respondent.

FINAL ORDER

On August 28, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violations of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2018(9) – *Change in personal information. An individual licensee, whether active or inactive, shall provide written notice to the commission, in the form and manner approved by the commission, of any change of his personal name, address of personal residence or personal telephone number. Notice shall be provided within ten (10) business days of the change. If the licensee has changed his personal name, he shall also submit legal proof of the change and, if an active licensee, he shall have the broker submit the written notice of change to the commission.*

b. § 54-2053(4) – *No advertising shall provide any information to the public or to prospective customers or clients that is misleading in nature. Information is misleading if, when taken as a whole, there is a distinct probability that such information will deceive the persons whom it is intended to influence.*

Having considered the Stipulation, the Commission approves the same and enters the following order of discipline in accordance therewith.

IT IS HEREBY ORDERED, as follows:

1. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**

a. Respondent shall pay a **Five Hundred Dollar (\$500.00) civil fine by December 2, 2019.**

b. Respondent shall pay **costs and attorney's fees in the amount of Four Hundred Fifty Dollars (\$450.00) by October 2, 2019**, and that in any event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.

c. In the event Staff agrees to accept installment payments of any fine or fees under the Stipulation, should Respondent fail to make any one payment as required by its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any agreement or act by Staff to accept a late payment shall not constitute a waiver of Staff's right, upon any subsequent failure by Respondent to make a payment on time, to invoke this provision to require immediate and full payment.

d. All fines and attorney's fees are due and payable pursuant to the terms of this Order. Payments must be made directly to the Idaho Real Estate Commission by cash, check, money order or credit card, and may be hand delivered or mailed to the Idaho Real Estate Commission 575 E. Parkcenter Blvd., Ste. 180, Boise, Idaho 83706. **All payments must be received at the Commission office on or before 5:00 p.m.**

MST/MDT on the dates set forth above. MAKE ALL PAYMENTS TO THE IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES.

3. Continuing Education

a. Respondent shall successfully complete the following Idaho real estate educational course by March 2, 2020:

- **Post License Pricing, Marketing, and Advertising**

b. The above course shall be completed on or before 5:00 p.m. MST/MDT of the deadline day. In addition, within 48 hours of completing said course, Respondent shall be responsible for mailing/emailing/faxing (208-334-2050) a copy of the completion certificate to the Idaho Real Estate Commission, Attention: Chief Investigator. Should Respondent fail to provide Commission Staff with a completion certificate on or before the deadline, Respondent's real estate license shall be suspended pursuant to the terms of this Final Order.

c. Respondent is on notice that pursuant to Idaho Code 54-2023(5), "*No licensee shall obtain continuing education credit for education ordered by the Commission as part of a disciplinary action.*" Respondent shall not submit such Commission-ordered educational course for continuing education credit.

4. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent's license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by


Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

5. The Commission shall be entitled to seek an injunction or order from the district court to enforce the provisions of this Final Order without further administrative hearing in the event the Respondent fails to comply with this Final Order entered pursuant to the Stipulation.

6. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondent by mailing a copy to the Respondent's last known address on file at the Commission office.

Issued this 28th day of August 2019.

FOR THE COMMISSIONERS:



L. Hill Stone, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Danyele "Angii" Walsh
13601 W McMillan
Boise, ID 83713

☒ U.S. Mail
☐ Email:
☐ Facsimile Transmission
☒ Email
angii@yourhomeidaho.com

Eric F. Nelson
Naylor & Hales, PC
950 W. Bannock St. Ste 610
Boise, ID 83702

☐ U.S. Mail
☒ Email
eric@naylorhales.com
☐ Facsimile Transmission



MiChell M. Bird, Executive Director
Idaho Real Estate Commission

BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL
ESTATE COMMISSION,

Petitioner,

vs.

NAI PREMIER,

Respondent.

FINAL ORDER

On August 28, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(39)(a), (c), & (d) and § 54-2004(2) – Unlicensed practice by engaging in selling, listing, buying or negotiating, or offering to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others, without an Idaho license.

Having considered the Stipulation, the Commission approves the same and enters the following order of discipline in accordance therewith.

IT IS HEREBY ORDERED, as follows:

1. **Cease and Desist.**

Respondent shall cease and desist from further unlicensed practice in Idaho and engaging in any of the conduct or violations set forth in the Stipulation or any other conduct violating the Idaho Real Estate License Laws and Rules.

2. Fines and Fees

a. Respondent shall pay a **One Thousand Five Hundred Dollar (\$1,500.00) civil fine by October 2, 2019.**

b. Respondent shall pay **costs and attorney's fees in the amount of Four Hundred Fifty Dollars (\$450.00) by October 2, 2019**, and that in any event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.

c. In the event Staff agrees to accept installment payments of any fine or fees under the Stipulation, should Respondent fail to make any one payment as required by its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any agreement or act by Staff to accept a late payment shall not constitute a waiver of Staff's right, upon any subsequent failure by Respondent to make a payment on time, to invoke this provision to require immediate and full payment.

d. All fines and attorney's fees are due and payable pursuant to the terms of this Order. Payments must be made directly to the Idaho Real Estate Commission by cash, check, money order or credit card, and may be hand delivered or mailed to the Idaho Real Estate Commission 575 E. Parkcenter Blvd., Ste. 180, Boise, Idaho 83706. **All payments must be received at the Commission office on or before 5:00 p.m. MST/MDT on the dates set forth above. MAKE ALL PAYMENTS TO THE IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES.**

3. The Commission shall be entitled to seek an injunction or order from the district court to enforce the provisions of this Final Order without further administrative hearing in the event the Respondent fails to comply with this Final Order entered pursuant to the Stipulation.

4. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondent by mailing a copy to the Respondent's last known address on file at the Commission office.

Issued this 28th day of August 2019.

FOR THE COMMISSIONERS:



Jill Stone, Chair

CERTIFICATE OF SERVICE

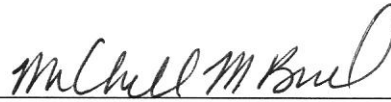
I HEREBY CERTIFY that on this 30th day of August 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Anna E. Eberlin
Holland & Hart, LLP
PO Box 2527
Boise, ID 83701-2527
(Attorney for Respondent)

 X U.S. Mail
 Email:
 Facsimile Transmission

Eric F. Nelson
Naylor & Hales, PC
950 W. Bannock St. Ste 610
Boise, ID 83702

 U.S. Mail
 X Email
 eric@naylorhales.com
 Facsimile Transmission



MiChell M. Bird, Executive Director
Idaho Real Estate Commission

BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL
ESTATE COMMISSION,

Petitioner,

vs.

DEERFIELD PARTNERS INC.,

Respondent.

FINAL ORDER

On August 28, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(39)(a), (c), & (d) and § 54-2004(2) – Unlicensed practice by engaging in selling, listing, buying or negotiating, or offering to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others, without an Idaho license.

Having considered the Stipulation, the Commission approves the same and enters the following order of discipline in accordance therewith.

IT IS HEREBY ORDERED, as follows:

1. **Cease and Desist.**

Respondent shall cease and desist from the unlicensed practice of real estate in Idaho and engaging in any of the conduct or violations set forth in the Stipulation or any other conduct violating the Idaho Real Estate License Laws and Rules.

2. **Fines and Fees**

a. Respondent shall be jointly and severally liable with Griffith and Giordani for paying a **One Thousand Five Hundred Dollar (\$1,500.00) civil fine by October 2, 2019.**

b. Respondent shall be jointly and severally liable with Griffith and Giordani for paying the **costs and attorney's fees in the amount of Four Hundred Fifty Dollars (\$450.00) by October 2, 2019**, and that in any event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.

c. In the event Staff agrees to accept installment payments of any fine or fees under the Stipulation, should Respondent fail to make any one payment as required by its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any agreement or act by Staff to accept a late payment shall not constitute a waiver of Staff's right, upon any subsequent failure by Respondent to make a payment on time, to invoke this provision to require immediate and full payment.

d. All fines and attorney's fees are due and payable pursuant to the terms of this Order. Payments must be made directly to the Idaho Real Estate Commission by cash, check, money order or credit card, and may be hand delivered or mailed to the Idaho Real Estate Commission 575 E. Parkcenter Blvd., Ste. 180, Boise, Idaho 83706. **All payments must be received at the Commission office on or before 5:00 p.m. MST/MDT on the dates set forth above. MAKE ALL PAYMENTS TO THE**


**IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO
NAYLOR & HALES.**

3. The Commission shall be entitled to seek an injunction or order from the district court to enforce the provisions of this Final Order without further administrative hearing in the event the Respondent fails to comply with this Final Order entered pursuant to the Stipulation.

4. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondent by mailing a copy to the Respondent's last known address on file at the Commission office.

Issued this 28th day of August 2019.

FOR THE COMMISSIONERS:



L. Jill Stone, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Jon Stenquist
Parsons Behle & Latimer
350 Memorial Drive, Ste. 300
Idaho Falls, ID 83402
(Attorney for Respondent)

 X U.S. Mail
 Email:
 Facsimile Transmission

Eric F. Nelson
Naylor & Hales, PC
950 W. Bannock St. Ste 610
Boise, ID 83702

 U.S. Mail
 X Email
 eric@naylorhales.com
 Facsimile Transmission


MiChell M. Bird, Executive Director
Idaho Real Estate Commission

BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL
ESTATE COMMISSION,

Petitioner,

vs.

JOHN GIORDANI,

Respondent.

FINAL ORDER

On August 28, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(39)(a), (c), & (d) and § 54-2004(2) – Unlicensed practice by engaging in selling, listing, buying or negotiating, or offering to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others, without an Idaho license.

Having considered the Stipulation, the Commission approves the same and enters the following order of discipline in accordance therewith.

IT IS HEREBY ORDERED, as follows:

1. **Cease and Desist.**

Respondent shall cease and desist from the unlicensed practice of real estate in Idaho and engaging in any of the conduct or violations set forth in the Stipulation or any other conduct violating the Idaho Real Estate License Laws and Rules.

2. Fines and Fees

a. Respondent shall pay a **One Thousand Five Hundred Dollar (\$1,500.00) civil fine by October 2, 2019.**

b. Respondent shall pay the **costs and attorney fees in the amount of Four Hundred Fifty Dollars (\$450.00) by October 2, 2019**, and that in any event, all monies paid by Respondent will be applied towards the costs/fees award first before application to the fine.

c. Respondent shall be jointly and severally liable with Deerfield Partners Inc. to pay the **One Thousand Five Hundred Dollar (\$1,500.00) civil fine and Four Hundred Fifty Dollars (\$450.00) in costs and attorney fees assessed against Deerfield in Case No. 18-0235, by October 2, 2019.**

d. In the event Staff agrees to accept installment payments of any fine or fees under the Stipulation, should Respondent fail to make any one payment as required by its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any agreement or act by Staff to accept a late payment shall not constitute a waiver of Staff's right, upon any subsequent failure by Respondent to make a payment on time, to invoke this provision to require immediate and full payment.

e. All fines and attorney's fees are due and payable pursuant to the terms of this Order. Payments must be made directly to the Idaho Real Estate Commission by cash, check, money order or credit card, and may be hand delivered or mailed to the Idaho

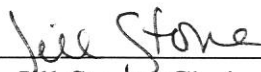
Real Estate Commission 575 E. Parkcenter Blvd., Ste. 180, Boise, Idaho 83706. **All payments must be received at the Commission office on or before 5:00 p.m. MST/MDT on the dates set forth above. MAKE ALL PAYMENTS TO THE IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES.**

3. The Commission shall be entitled to seek an injunction or order from the district court to enforce the provisions of this Final Order without further administrative hearing in the event the Respondent fails to comply with this Final Order entered pursuant to the Stipulation.

4. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondent by mailing a copy to the Respondent's last known address on file at the Commission office.

Issued this 28th day of August 2019.

FOR THE COMMISSIONERS:



L. Jill Stone, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Jon Stenquist
Parsons Behle & Latimer
350 Memorial Drive, Ste. 300
Idaho Falls, ID 83402
(Attorney for Respondent)

☒ U.S. Mail
☐ Email:
☐ Facsimile Transmission

Eric F. Nelson
Naylor & Hales, PC
950 W. Bannock St. Ste 610
Boise, ID 83702

☐ U.S. Mail
☒ Email
eric@naylorhales.com
☐ Facsimile Transmission



MiChell M. Bird, Executive Director
Idaho Real Estate Commission

BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL
ESTATE COMMISSION,

Petitioner,

vs.

ART GRIFFITH,

Respondent.

FINAL ORDER

On August 28, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(39)(a), (c), & (d) and § 54-2004(2) – Unlicensed practice by engaging in selling, listing, buying or negotiating, or offering to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others, without an Idaho license.

Having considered the Stipulation, the Commission approves the same and enters the following order of discipline in accordance therewith.

IT IS HEREBY ORDERED, as follows:

1. **Cease and Desist.**

Respondent shall cease and desist from the unlicensed practice of real estate in Idaho and engaging in any of the conduct or violations set forth in the Stipulation or any other conduct violating the Idaho Real Estate License Laws and Rules.

2. Fines and Fees

a. Respondent shall pay a **One Thousand Five Hundred Dollar (\$1,500.00) civil fine by October 2, 2019.**

b. Respondent shall pay the **costs and attorney fees in the amount of Four Hundred Fifty Dollars (\$450.00) by October 2, 2019**, and that in any event, all monies paid by Respondent will be applied towards the costs/fees award first before application to the fine.

c. Respondent shall be jointly and severally liable with Deerfield Partners Inc. to pay the **One Thousand Five Hundred Dollar (\$1,500.00) civil fine and Four Hundred Fifty Dollars (\$450.00) in costs and attorney fees assessed against Deerfield in Case No. 18-0235, by October 2, 2019.**

d. In the event Staff agrees to accept installment payments of any fine or fees under the Stipulation, should Respondent fail to make any one payment as required by its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any agreement or act by Staff to accept a late payment shall not constitute a waiver of Staff's right, upon any subsequent failure by Respondent to make a payment on time, to invoke this provision to require immediate and full payment.

e. All fines and attorney's fees are due and payable pursuant to the terms of this Order. Payments must be made directly to the Idaho Real Estate Commission by cash, check, money order or credit card, and may be hand delivered or mailed to the Idaho

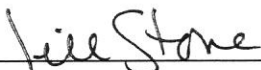
Real Estate Commission 575 E. Parkcenter Blvd., Ste. 180, Boise, Idaho 83706. **All payments must be received at the Commission office on or before 5:00 p.m. MST/MDT on the dates set forth above. MAKE ALL PAYMENTS TO THE IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES.**

3. The Commission shall be entitled to seek an injunction or order from the district court to enforce the provisions of this Final Order without further administrative hearing in the event the Respondent fails to comply with this Final Order entered pursuant to the Stipulation.

4. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondent by mailing a copy to the Respondent's last known address on file at the Commission office.

Issued this 28th day of August 2019.

FOR THE COMMISSIONERS:



L. Jill Stone, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Jon Stenquist
Parsons Behle & Latimer
350 Memorial Drive, Ste. 300
Idaho Falls, ID 83402
(Attorney for Respondent)

 X U.S. Mail
 Email:
 Facsimile Transmission

Eric F. Nelson
Naylor & Hales, PC
950 W. Bannock St. Ste 610
Boise, ID 83702

 U.S. Mail
 X Email
 eric@naylorhales.com
 Facsimile Transmission



MiChell M. Bird, Executive Director
Idaho Real Estate Commission

COPY ORIGINAL

Comma

DAVID E. WYNKOOP
Sherer & Wynkoop, LLP
730 N. Main St.
P.O. BOX 31
Meridian, ID 83680
Telephone: (208) 887-4800
Email: dwynkooplaw@gmail.com
Idaho State Bar No. 2429

BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL
ESTATE COMMISSION,

Petitioner,

vs.

SEAN CURTIS CONNER and
RS DEVELOPMENT LLC,

Respondents.

Case Nos. 17-0073
18-0283

FINAL ORDER

1. A Complaint in the above-entitled matter was filed with the Commission June 13, 2019. On June 17, 2019, the Complaint was duly served upon Respondent.

2. No Answer or other responsive pleadings or motions have been filed within the time prescribed by law, and after being served with a Notice of Proposed Default Order, the Respondents have failed to timely file a Petition preventing entry of the proposed default Final Order.

3. Based upon this record, and as provided by Idaho Code Section 67-5242(4), Staff of the Idaho Real Estate Commission is entitled to entry of this default order, which Complaint seeks the disciplinary action outlined herein, based upon the verified allegations set forth below:

Respondent Conner violated the following sections of Idaho Code:

a. § 54-2055(2) – *A licensee shall disclose in writing to any buyer or seller no later than at the time of presentation of the purchase and sale agreement that the licensee holds an active Idaho real estate license, if the licensee directly, indirectly, or through a third party, sells or purchases an interest in real property for personal use or any other purpose; or acquires or intends to acquire any interest in real property or any option to purchase real property.*

b. § 54-2055(3) – *Each actively licensed person buying or selling real property or any interest therein, in a regulated real estate transaction, must conduct the transaction through the broker with whom he is licensed, whether or not the property is listed*

c. § 54-2060(3) – *Failure to account for or remit any property, real or personal, or moneys coming into the person's possession, which belong to another.* (Conner failed to conduct either the first or second Shields property transaction through his brokerage.)

d. § 54-2060(12) – *Gross negligence or reckless conduct in a regulated real estate transaction.* (Conner engaged in a course of

conduct, whereby, he gained a customer's confidence, then made numerous misrepresentations about the Shields property and his involvement in the transactions.)

e. § 54-2085(4) – *A purchase and sale agreement, an attachment thereto, or other document drafted in connection with a regulated real estate transaction shall contain the following confirmation of the relationship, whether it involved representation or not, between the buyer, seller and licensees involved: Representation Confirmation and Acknowledgment of Disclosure: check one box in section one and one box in section two to confirm that in this transaction, the brokerage(s) involved had the following relationship with the buyer(s) and seller(s).*

f. § 54-2086(1)(c) – *If the buyer, or prospective buyer, is not represented by a brokerage in a regulated real estate transaction, that buyer remains a customer, and as such, the brokerage and its licensees are nonagents and owe the following legal duties and obligations: to properly account for moneys or property placed in the care and responsibility of the brokerage.*

g. § 54-2086(1)(b) – *To perform ministerial acts with honesty, good faith, reasonable skill and care.* (Conner failed to disclose to Marquart and BASC his ownership interest in the Shields property during the transaction while representing them as a customer.)

h. § 54-2051(4)(a) – *Failure to include all terms and conditions as directed by the buyer; specifically, the water easement.*

- i. § 54-2060(2) – *Engaging in a continued or flagrant course of misrepresentation.* (Conner misrepresented the water easement, the amount of earnest money, and the existence of competing buyers.)

Respondent RS Development LLC violated the following section of Idaho Code:

- a. § 54-2002, as defined by §54-2004(39)(a), (c), (d) and § 54-2004(2) – *Unlicensed practice by engaging in selling, listing, buying or negotiating, or offering to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others, without an Idaho license.*

NOW, THEREFORE, IT IS HEREBY ORDERED, as follows:

1. Respondent Conner is hereby given a Formal Reprimand for the actions outlined above.
2. Respondent RS Development, LLC is hereby ordered to Cease and Desist engaging in the unlicensed practice of real estate in Idaho.
3. Respondents are ordered to jointly and severally pay a Four Thousand Dollar (\$4,000.00) total civil fine by October 2, 2019.
4. Respondents are jointly and severally ordered to pay reasonable costs and attorney fees incurred by Staff in the investigation and enforcement of this action, which amount is Nine Hundred Seventy Five Dollars (\$975.00) as of the date the Complaint was filed, and which amount is deemed reasonable in the case of default; such fees shall be due and payable by October 2, 2019, and that in any

event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.

5. In the event Staff agrees to accept installment payments of any fine or fees under the Stipulation, should Respondent fail to make any one payment as required by its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any agreement or act by Staff to accept a late payment shall not constitute a waiver of Staff's right, upon any subsequent failure by Respondent to make a payment on time, to invoke this provision to require immediate and full payment.

6. All fines and attorney's fees are due and payable pursuant to the terms of this Order. Payments must be made directly to the Idaho Real Estate Commission by cash, check, money order or credit card, and may be hand delivered or mailed to the Idaho Real Estate Commission 575 E. Parkcenter Blvd., Ste. 180, Boise, Idaho 83706. **All payments must be received at the Commission office on or before 5:00 p.m. MST/MDT on the dates set forth above. MAKE ALL PAYMENTS TO THE IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES OR TO DAVID E. WYNKOOP OR SHERER & WYNKOOP, LLP.**

7. Respondent Conner shall be required to successfully complete both a Risky Business 1 and Risky Business 2 course by March 2, 2020.

a. The above courses shall be completed on or before 5:00 p.m. MST/MDT of the deadline day. In addition, within 48 hours of completing said courses, Respondent shall be responsible for mailing/emailing/faxing (208-334-2050) a copy of the completion certificates to the Idaho Real Estate Commission, Attention: Chief Investigator. Should Respondent fail to provide Commission Staff

with a completion certificate on or before the deadline, Respondent's real estate license shall be suspended pursuant to the terms of this Final Order.

b. Respondent is on notice that pursuant to Idaho Code 54-2023(5), *"No licensee shall obtain continuing education credit for education ordered by the Commission as part of a disciplinary action."* Respondent shall not submit such Commission-ordered educational courses for continuing education credit.

8. Respondent Conner's real estate license is hereby suspended for six (6) months, all of which shall be withheld provided that he fully and timely pays the fine, costs and attorney fees and timely and successfully completes the continuing education requirements set forth in this Final Order.

9. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent's license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

10. This is a Final Order of the Agency. Any aggrieved party may file a Motion for Reconsideration of this Final Order within fourteen (14) days of the

date of service of this Final Order. The Commission will dispose of the Petition [Motion] for Reconsideration within twenty-one (21) days of its receipt, or else the Petition will be deemed denied by the operation of law. See section 67-5246(4), Idaho Code.

11. Judicial Review – Place of filing. Pursuant to section 67-5272, Idaho Code, any party aggrieved by this Final Order or Orders previously issued in this case may seek judicial review of this Final Order and all previously issued Orders in this case to district court by filing a Petition for Review in the district court of the county in which:

- A. a hearing was held;
- B. the final agency action was taken;
- C. the party seeking review of the Order resides or operates its principal place of business in Idaho.

12. Judicial Review – Time for Filing. Pursuant to section 67-5273, Idaho Code, any Petition for Judicial Review must be filed:

- A. within twenty-eight (28) days of the date of service of this Final Order; or, if a Petition for reconsideration is filed,
- B. within twenty-eight (28) days of the date of the Commission's decision on that Petition, or of the Commission's failure within twenty-one (21) days to issue a decision on the petition, whichever is later.


A Cross-Petition for Judicial Review may be filed within fourteen (14) days after a party is served with a copy of the notice of the Petition for Judicial Review.

The filing of a Petition for Review in the District Court does not itself stay the effectiveness or enforcement of the Order being appealed. *See* Idaho Code 57-5274.

13. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondents by mailing a copy to the Respondents' last known address on file at the Commission office.

ISSUED this 28th day of August 2019.

FOR THE COMMISSIONERS:



L. Jill Stone, Chair

IDAHO REAL ESTATE COMMISSION

Guideline #7

Revised May 9, 2013

GUIDELINES FOR "SUSPENDED" LICENSEES

Idaho's license laws impose certain duties and consequences upon the salesperson or broker whose license is "suspended" as part of a disciplinary action taken pursuant to the Commission's "Disciplinary Powers" or "suspended" under the statute's "Automatic Suspension" provisions. This Guideline is intended to outline those duties and consequences. (This Guideline is not intended to address a situation in which the license has "expired" after the license period has elapsed and the license is not renewed.)

1. A person whose license is suspended is in the same position as an unlicensed person. Such person may not engage in any real estate activity that requires a real estate license, e.g., he or she may not list, sell, buy, or negotiate, or offer to list, sell or buy or negotiate the purchase, sale, option or exchange of real estate.

2. The person whose license is suspended may receive compensation during the suspended period only for acts performed during the period in which the person was properly licensed. For example, if the person negotiated a sale during the licensed period, the person may receive payment for performance of those acts even though the sale closes during the suspended period.
3. If the suspended person is a designated broker, any transaction that is closed during the period of suspension must be finalized by either another broker, an attorney, a title company, or a financial institution.
4. All advertising naming the suspended licensee, including but not limited to signs on office buildings and on "for sale" properties, must be removed. All evidence of the person's licensure must be removed from public view.
5. If the suspended person is the designated broker, and if no other broker is designated to act for the brokerage company, the office must be closed during the period of suspension, and the licenses of all associated licensees will be made inactive by the Commission. Telephone service should be canceled, or the telephone must be answered by indicating to all callers that the office is closed due to the suspension of the broker's real estate license.
6. If the suspended person is the designated broker for a licensed business entity, the law grants the entity ten (10) business days to designate a new broker. If no new broker is designated within the statutory period, the license of the entity is terminated, and the licenses of all associated licensees are inactivated by the Commission.

Guideline #7

The pertinent sections of the Idaho Real Estate License Law and Rules are the following:

1. 54-2002. Licensure Required.
 2. 54-2004. Definitions
"Real Estate Broker" and "Real Estate Salesperson"
 3. 54-2039. Broker and Branch Office Manager Absences and Changes.
 4. 54-2054. Compensation, Commissions and Fees - Prohibited Conduct.
 5. 54-2059. Disciplinary Powers.
 6. 54-2060. Grounds for Disciplinary Action.
 7. 54-2061. Additional Grounds - Court Actions.
 8. 54-2062. Additional Grounds - Other Administrative Actions.
 9. 54-2074. Automatic Suspension.
-

IDAHO REAL ESTATE LICENSE LAW

54-2002. LICENSURE REQUIRED. No person shall engage in the business or act in the capacity of real estate broker or real estate salesperson in this state without an active Idaho real estate license therefore. Unless exempted from this chapter, any single act described within the definitions of "real estate broker" or "real estate salesperson" shall be sufficient to constitute "engaging in the business" within the meaning of this chapter. Any person who engages in the business or acts in the capacity of real estate broker or salesperson in this state, with or without an Idaho real estate license, has thereby submitted to the jurisdiction of the state of Idaho and to the administrative jurisdiction of the Idaho Real Estate Commission, and shall be subject to all penalties and remedies available under Idaho law for any violation of this chapter.

54-2004. DEFINITIONS. As used in this chapter:

"Real estate broker" means and includes:

(a) Any person other than a real estate salesperson, who, directly or indirectly, while acting for another, for compensation or a promise or an expectation thereof, engages in any of the following: sells, lists, buys, or negotiates, or offers to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others.

(b) Any actively licensed broker while, directly or indirectly, acting on the broker's own behalf;

(c) Any person who represents to the public that the person is engaged in any of the

Guideline #7

above activities;

(d) Any person who directly or indirectly engages in, directs, or takes any part in the procuring of prospects, or in the negotiating or closing of any transaction which does or is calculated to result in any of the acts above set forth.

(e) A dealer in options as defined in this section.

“Real estate salesperson” or “salesperson” means any person who has qualified and is licensed as a real estate salesperson in Idaho under this chapter, and is licensed under, associated with, and represents a designated broker in the performance of act described in this section.

54-2039. Broker and Branch Office Manager Absences and Changes.

Each real estate brokerage company must have a legally qualified individual acting as designated broker at all times. Each branch office licensed under section 54-2016, Idaho Code, shall have, at all times, a legally qualified individual acting as branch office manager.

Change of broker in business entity. A license issued to a legal business entity, as defined in this chapter, is effective only as long as the individual designated broker’s license is in active status and in effect. If the individual so designated has a license refused, revoked, suspended or otherwise made inactive by the Commission, or if the individual designated broker voluntarily surrenders the individual license or ceases to be connected with the entity in the manner required in this chapter, the business entity shall have ten (10) business days in which to designate another qualified individual as designated broker before the entity’s license is terminated, and the licenses of all associated licensees are made inactive.

54-2054. Compensation, Commission and Fees – Prohibited Conduct.

Court action for fee collection. No person engaged in the business or acting in the capacity of real estate broker or salesperson in Idaho shall bring or maintain any action in the courts for the collection of a fee, commission or other compensation for the performance of any acts requiring a real estate license as provided in section 54-2002, Idaho Code, without alleging and proving that such person was an actively licensed broker or salesperson in Idaho at the time the alleged cause of action arose.

Fee-splitting with unlicensed persons prohibited. Unless otherwise allowed by statute or rule, a real estate broker, associate broker or salesperson licensed in the state of Idaho shall not pay any part or share of a commission, fee or compensation received in the licensee's capacity as such in a regulated real estate transaction to any person who is not actively licensed as a real estate broker in Idaho or in another state or jurisdiction. The Idaho broker making the payment to another licensed person is responsible for verifying the active licensed status of the receiving broker. This section shall not prohibit payment of a part or share of a commission, fee or compensation by the broker to legal business entity, all of whose shareholders, members or other persons having a similar ownership interest are active real estate licensees. An Idaho licensee may pay any part or share of a commission, fee or compensation received, directly to the buyer or seller in the real estate

Guideline #7

transaction. However, no commission, fee or compensation may be split with any party to the transaction in a manner which would directly or indirectly create a double contract, as defined in this chapter or which would otherwise mislead any broker, lender, title company or government agency involved in the transaction regarding the source of funds used to complete the real estate transaction or regarding the financial resources or obligations of the buyer.

54-2059. Disciplinary Powers -- Revocation, Suspension or Other Disciplinary Action.

The Commission may temporarily suspend or permanently revoke licenses issued under the provisions of this chapter, issue a formal reprimand and impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000), and assess costs and attorney's fees for the cost of any investigation and administrative or other proceedings against any licensee who is found to have violated any section of the Idaho Code, the Commission's administrative rules or any order of the Commission. The executive director may issue informal letters of reprimand to licensees without civil penalty or cost assessment.

54-2060. Grounds for Disciplinary Action.

A person found guilty of misconduct while performing or attempting to perform any act requiring an Idaho real estate broker or salesperson's license, regardless of whether the act was for the person's own account or in his capacity as broker or salesperson, shall be subject to disciplinary action by the Commission. The following acts shall constitute misconduct within the meaning of this section:

- (1) Making fraudulent misrepresentations;
- (2) Engaging in a continued or flagrant course of misrepresentation or making of false promises, whether done personally or through agents or salespersons;
- (3) Failure to account for or remit any property, real or personal, or moneys coming into the person's possession which belong to another;
- (4) Failure to keep adequate records of all property transactions in which the person acts in the capacity of real estate broker or salesperson;
- (5) Failure or refusal, upon lawful demand, to disclose any information within the person's knowledge, or to produce any documents, books or records in the person's possession for inspection by the Commission or its authorized representative;
- (6) Acting as a real estate broker or salesperson under an assumed name;
- (7) Employment of fraud, deception, misrepresentation, misstatement or any unlawful means in applying for or securing a license to act as a real estate broker or salesperson in the state of Idaho;
- (8) Using, proposing to use, or agreeing to use a "double contract" as prohibited in section 54-2054, Idaho Code;
- (9) Seeking or receiving a "kickback" or rebate prohibited in section 54-2054, Idaho Code;
- (10) Violation of any provision of sections 54-2001 through 54-2097, Idaho Code, or any administrative rule made or promulgated by the Commission or any final order of the Commission;
- (11) Any other conduct whether of the same or a different character than hereinabove specified which constitutes dishonest or dishonorable dealings;

Guideline #7

(12) Gross negligence or reckless conduct in a regulated real estate transaction. Conduct is grossly negligent or reckless if, when taken as a whole, it is conduct which substantially fails to meet the generally accepted standard of care in the practice of real estate in Idaho.

54-2061. Additional Grounds for Disciplinary Action -- Court Actions.

The Commission may also take disciplinary action against a licensee including, but not limited to, suspension or revocation of a license, where, in a court of competent jurisdiction, the licensee:

(a) Has been convicted of a felony, or has been convicted of a misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing or which otherwise demonstrates the licensee's lack of trustworthiness to engage in the real estate business;

(b) Has been declared to lack capacity or to be incompetent or under an infirmity, for the duration of such declaration only;

(c) Has a judgment entered against the licensee in a civil action upon grounds of fraud, misrepresentation, deceit or gross negligence with reference to a real estate-related transaction.

The court's record of conviction, order determining legal competency, or the order entering judgment in a civil case, or certified copies thereof, shall be prima facie evidence of a conviction, or the court's action.

54-2062. Additional Grounds for Disciplinary Action -- Other Administrative Actions.

The Commission may also take any disciplinary action, including, but not limited to, suspension or revocation of a license where the licensee:

(a) Has an order or determination of debarment, suspension, or any limitation on participation in government loan programs issued against the licensee for misconduct; or

(b) Has a real estate or other professional, suspended or revoked for a disciplinary violation involving fraud, misrepresentation, or dishonest or dishonorable dealings. A certified copy of the order of the administrative agency in the other jurisdiction shall be prima facie evidence of the suspension or revocation.

54-2074. Automatic Suspension of Broker's, Associate Broker's or Salesperson's License on Payment by Commission -- Condition For License Reinstatement. If, pursuant to court order, the Commission pays from the recovery fund any amount in settlement of a claim or towards satisfaction of a judgment against a licensed broker, associate broker or salesperson, the license of such broker, associate broker or salesperson shall be automatically suspended without further order of the Commission upon the effective date of any order by the court as set forth herein authorizing payment

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from the recovery fund. No such broker, associate broker or salesperson shall be granted reinstatement until he has repaid in full, the amount so paid from the recovery fund plus interest at the legal rate of interest allowable by law for judgments.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order and Guideline 7, upon:

Sean C. Conner
RS Development LLC
12754 Schicks Rd
Boise, ID 83714

 X U.S. Mail
 Email:
 Facsimile Transmission



MiChell M. Bird, Executive Director
Idaho Real Estate Commission